IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6406 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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RAJUBHAI NARANBHAI MARATHI

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR PREMAL JOSHI, A.G.P., for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 11/02/2000

ORAL JUDGEMENT

The detenu has filed this petition under Article 226 of the Constitution of India, challenging the order of detention, vide Annexure 'A' dated 12.6.1999 passed by the Commissioner of Police, Ahmedabad City, under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as the PASA].

2. The detaining authority has filed an affidavit to substantiate the case. From the grounds of detention dated 12.6.1999, vide Annexure 'B' it appears that the detenu was found indulging in transportation and sale of illicit liquor. The detaining authority also found that the detenu was in the habit of causing injuries with weapons and beating persons residing in the locality and the passerby.

3. In the instant case, the detaining authority has

filed an affidavit supporting the order of detention. However, in the instant case the detenu has submitted a representation to the State Government. Till today, no material is placed before the Court whether the said representation is decided or not. Ground 'J' of the memo of petition reads as under :-

> "The petitioner respectfully states that the representation dated 28.7.99 was made on behalf of the petitioner by R.P.A.D. to the State Govt. Annexed hereto and marked as Annexure 'C' is a copy of the representation dated 28.7.99. It is submitted that the State Government has to satisfy this Hon'ble Court that the representation received by them has been considered as expeditiously as possible and without any undue delay. In failing to do so, the continued detention of the petitioner becomes bad in law."

4. In number of judgments, this Court has pointed out that the concerned respondents are required to file an affidavit pointing out that the procedure which is required to be followed has been followed. In the instant case, there is nothing on the record to show that the representation has been considered by the authority. Therefore, the continued detention of the detenu is required to be held as bad and illegal. Therefore, the detenu is ordered to be released forthwith if not required in any other case. Rule made absolute accordingly. No order as to costs.

csm./ ----------